

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

10146-MLW A. g. 49

FAIRBANKS CAPITAL CORP., as)
SERVICER FOR BANK ONE, N.A. f/k/a)
THE FIRST NATIONAL BANK OF CHICAGO,)
as TRUSTEE UNDER THE POOLING AND)
SERVICING AGREEMENT DATED AS OF)
SEPTEMBER 1, 1998, SERIES 1998-B,)
)

U.S. DISTRICT COURT
DISTRICT OF MASS

Plaintiff,

Civil No. _____

v.

JAMES MORIN, NANCY MORIN,)
THERESA MORIN, UNITED STATES OF)
AMERICA, and VERIZON YELLOW PAGES)
COMPANY f/k/a BELL ATLANTIC YELLOW)
PAGES CO. f/k/a NYNEX INFOR.,)
)

Formerly
No. 294558
Suffolk County Land Court

Defendants.

04cv10146-MLW

UNITED STATES' REQUEST TO ENLARGE TIME TO ANSWER OR RESPOND

On, or about, January 23, 2004, the defendant United States of America removed this action to this Court. The defendant United States hereby respectfully requests this Court to enter an order enlarging, to and including February 27, 2004, the time in which the United States shall be permitted to serve an answer, a motion, or such other response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action.

No memorandum is submitted in support of this request as it is not a motion. As provided by Rule 6(b)(1) of the Federal Rules of Civil Procedure, the district court has discretion to grant requests to enlarge time "without motion or notice before the expiration of the period." (emphasis added) In

contrast, Rule 6(b)(2) limits enlargements to the granting of motions made upon grounds of excusable neglect. Accordingly, here we are making a timely request under Rule 6(b)(1).

In making this request, we note that Rule 81(c) of the Federal Rules of Civil Procedure governs the procedure in civil actions removed from the state courts to the United States District Courts. Rule 81(c) first provides that the Federal Rules of Civil Procedure apply to removed cases. The Rule goes on to prescribe certain periods for the service of an answer or other defenses. The governing time period under Rule 81(c) may be as short as five days after removal. The undersigned trial counsel represents that more than five days are required to prepare and to serve an appropriate response raising the defenses of the United States. Therefore, the United States requests thirty days in which to file a response to the complaint. A proposed Order is enclosed herewith.

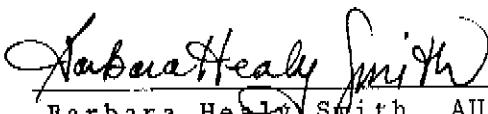
Respectfully submitted,

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

January 23, 2004

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DISTRICT OF MASSACHUSETTS

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| FAIRBANKS CAPITAL CORP., as) SERVICER FOR BANK ONE, N.A. f/k/a) THE FIRST NATIONAL BANK OF CHICAGO,) as TRUSTEE UNDER THE POOLING AND) SERVICING AGREEMENT DATED AS OF) SEPTEMBER 1, 1998, SERIES 1998-B,)) Plaintiff,)) v.)) JAMES MORIN, NANCY MORIN,) THERESA MORIN, UNITED STATES OF) AMERICA, and VERIZON YELLOW PAGES) COMPANY f/k/a BELL ATLANTIC YELLOW) PAGES CO. f/k/a NYNEX INFOR.,)) Defendants.) | Civil No. _____ |
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ORDER

The above-titled matter is before the Court upon the request of the defendant United States of America pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure, for the entry of an order enlarging, to and including February 27, 2004, the time in which the defendant United States, shall be permitted to serve an answer, a motion, or such other response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action. And the Court, being fully advised in the premises, and having determined that the requisite cause for enlargement of time has been shown,

IT IS ORDERED that the defendant United States shall have to and including February 27, 2004, to serve its answer, motion or other such response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action.

IT IS SO ORDERED, this ____ day of February, 2004.

UNITED STATES DISTRICT JUDGE